



THE ATTORNEY GENERAL
OF TEXAS

CRAWFORD C. MARTIN
ATTORNEY GENERAL

AUSTIN, TEXAS 78711

January 19, 1967

Honorable George Kelly
County Attorney
Bastrop County Courthouse
Bastrop, Texas

Opinion No. M-8

Re: Whether a constable may
lawfully be a surety on
a bail bond of a defen-
dant in the county where
the constable holds office?

Dear Mr. Kelly:

Article 17.10, Vernon's Code of Criminal Procedure,
provides the only disqualification of sureties on bail bonds,
and reads as follows:

"A minor cannot be surety on a
bail bond, but the accused party may
sign as principal."

A constable, therefore, is not disqualified by statute from
becoming a surety on a bail bond.

Article 5, Section 24, of the Constitution of the
State of Texas provides:


"County Judges, county attorneys,
clerks of the District and County Courts,
justices of the peace, constables, and
other county officers, may be removed by
the Judges of the District Courts for in-
competency, official misconduct, habitual
drunkenness, or other causes defined by
law, upon the cause therefor being set
forth in writing and the finding of its
truth by a jury." (Emphasis Supplied)

In our opinion, the execution of a bail bond by a
constable, as a surety, is not prohibited by the Statute
quoted or by the Constitution. There may be facts, however,
existing that would make such action official misconduct and
subject the constable to possible removal from office. The
specific facts involved in each instance must be carefully
examined and each case stands on its own merits.

S U M M A R Y

A constable is not barred by Article 17.10, Vernon's Code of Criminal Procedure and Article 5, Section 24 of the Constitution of this State from becoming a surety on a bail bond. However, there might be other facts which would make such action official misconduct on his part and grounds for his possible removal from office.

Very truly yours,


CRAWFORD C. MARTIN
Attorney General of Texas

REO/dt

Prepared by Robert E. Owen
Assistant Attorney General

APPROVED:

OPINION COMMITTEE:

Hawthorne Phillips, Chairman
W. V. Geppert, Co-chairman
Robert Darden
R. L. Lattimore
Sam Kelley
W. O. Shultz

Staff Legal Assistant
A. J. Carubbi, Jr.